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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,077	06/20/2003	William H. Fort	PCB105	7049

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EXAMINER	
KRAUSE, JUSTIN MITCHELL	

ART UNIT	PAPER NUMBER
3682	

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/601,077	FORT ET AL.	
	Examiner	Art Unit	
	Justin Krause	3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 March 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5,7-10 and 12-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5,7-10 and 12-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 5, 7, 8, 23, 25, 27, 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Mochida (US Patent 4,473,141).

Mochida discloses an actuator comprising:

-A latching lever (5 in combination with 13) pivotable between at least a first position (P) and a second position (R, N, D, D2, D1), said lever comprising a bearing surface (13).

-A stationary bearing surface (24)

-A solenoid (29) comprising a plunger (31) movable between an extended position and a retracted position (Figs 5a and 5b).

Regarding claim 3, the lever is biased toward one of said first and second position (31a, see Col. 3, lines 47-52).

Regarding claim 5, the plunger is biased toward one of said extended position and said retracted position when said solenoid is in an un-energized state (33, see Col. 3, lines 52-60).

Regarding claim 7, the actuator further comprises a mechanical switch (34) that is closed when said lever is in one of said first position and said second position.

Regarding claim 8, the plunger comprises a wedge shaped portion (31a).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 2 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mochida in view of Dörr et al (US Patent 5,379,872).

Mochida discloses all of the claimed limitations as described above.

Mochida does not disclose one of said lever bearing surface and said stationary bearing surface comprising a roller.

Dörr teaches an actuator with a roller (9), which allows the actuator to move with low forces (Col 4, lines 42-44).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teachings of Mochida and add a roller as taught by Dörr to one of, or both of the lever bearing surface (13) and the stationary bearing surface (24) to reduce friction (Col 3, line 15) and allow the actuator to be moved with low forces.

5. Claims 4 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mochida in view of Kataumi et al (US Patent 5,421,792).

Mochida discloses all of the claimed limitations as described above.

Mochida does not disclose the lever biased toward one of said first position and said second position by a torsion spring.

Kataumi teaches a torsion spring (46) to press a lever in the park position (Col 5, lines 28-32).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teachings of Mochida and add a torsion spring as taught by Kataumi in order to bias the latching lever towards a park position.

6. Claim 9, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mochida in view of Dörr.

Mochida discloses an actuator comprising:

-A base plate (14) and all of the claimed limitations as described above

Mochida does not disclose a lever roller, stationary roller disposed on said base plate, and also does not show the plunger disposed between the lever roller and the stationary roller when the plunger is in an extended position and the lever is in a first position, preventing the lever from pivoting to a second position.

Dörr teaches an actuator with a lever roller (9) and a stationary roller (6), which allows the actuator to move with low forces (Col 4, lines 42-44).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teachings of Mochida and add a roller as taught by Dörr to one of, or both of the lever bearing surface (13) and the stationary bearing surface (24) to reduce friction (Col 3, line 15) and allow the actuator to be moved with low forces.

By adding the stationary roller and lever roller to the device of Mochida, the plunger would be disposed between the lever roller and the stationary roller when the plunger is extended and the lever is in the first position, preventing the lever from pivoting to a second position.

Regarding claim 12, Mochida discloses a mechanical switch (34), which is closed when the lever is in the second position (Col 3, line 61 on).

Regarding claim 13, the plunger of Mochida comprises a wedge shaped portion (31a).

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mochida as modified by Dörr as applied to claim 9 above, and further in view of Kataumi et al.

Mochida as modified by Dörr discloses all of the claimed limitations as described above.

Mochida as modified by Dörr does not disclose the lever biased toward one of said first position and said second position by a torsion spring.

Kataumi teaches a torsion spring (46) to press a lever in the park position (Col 5, lines 28-32).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teachings of Mochida as modified by Dörr and add a torsion spring as taught by Kataumi in order to bias the latching lever towards a park position.

Response to Arguments

8. Applicant's arguments filed March 27, 2006 have been fully considered but they are not persuasive.

Applicant argues that the Mochida reference fails to teach or even suggest every aspect of the invention.

The Examiner disagrees, finding that Mochida teaches all of the claimed structure. Applicant appears to be arguing on the basis of functional language recited in the claims, however the present invention is not distinguished from the prior art in terms of positively recited structural differences.

> "While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function." (MPEP 2114)

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Krause whose telephone number is 571-272-3012. The examiner can normally be reached on Monday - Friday, 7:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JMK
6/5/06

RICHARD RIDLEY
SUPERVISORY PATENT EXAMINER